IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

RSA No. 48 of 2006

Decided on : August 4, 2006

Ramesh Kumar and others **…..Appellants.**

VERSUS

Roshan Lal and others **…..Respondents.**

Coram

The Hon'ble Mr. Justice Surjit Singh, Judge.

Whether approved for reporting?[1]

For the Appellants : **Mr. R.K. Gautam, Senior Advocate, with Ms Neelam Kaplas, Advocate.**

For the Respondents : **Mr. Anshul Bansal, Advocate, for respondents No.1 & 2.**

None for respondent No.3.

Surjit Singh, Judge (Oral)

Heard and gone through the record.

2. Appellants-plaintiffs filed a suit for declaration that the entries in the revenue papers, showing respondents-defendants No.1 1 to 3 as owners in possession of certain land described in the plaint, were wrong and illegal and that as a matter of fact the said land was in possession of the appellants-plaintiffs as tenants under one Hoshiar Singh. It was alleged that Hoshiar Singh had inducted the father of the appellants-plaintiffs as tenant on the suit land on sharing of the produce of the land but the defendants procured wrong entries in the revenue papers, showing them as tenants, and on the basis of those wrong entries, proprietary rights were also conferred upon them

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Whether the reporters of the local papers may be allowed to see the Judgment?

under the provisions of H.P. Tenancy and Land Reforms Act. It was alleged that the mutation order, conferring the proprietary rights upon the respondents-defendants, was passed behind the back of Hoshiar Singh and also the appellants-plaintiffs. Relief of permanent prohibitory injunction, restraining the respondents-defendants from interfering in the possession of the appellants-plaintiffs, was also sought. In the alternative prayer was made for passing a decree for possession.

3. Respondents-defendants contested the claim of the appellants-plaintiffs and pleaded that their father Phuman was inducted as tenant on the suit land by Hoshiar Singh, previous owner, and that in the year 1982 proprietary rights were conferred upon him under the provisions of H.P. Tenancy and Land Reforms Act. Some preliminary objections were also raised.

4. Trial Court framed various issues on the pleadings of the parties and at the end of the trial found all the issues against the respondents-defendants and the suit was decreed. The defendants went to the Court of learned District Judge. The learned District Judge has reversed the finding of the trial Court that the appellants'-plaintiffs' father was inducted as tenant on the suit land by previous owner Hoshiar Singh and that defendants-respondents' father had never been in possession of the suit land and that the entries showing him initially as tenant and thereafter as owner were wrong and consequently accepted the appeal and set aside the decree passed by the trial Court. Appellants-plaintiffs have now come to this Court.

5. I have been taken through the judgment of the first Appellate Court by the learned counsel for the appellants. A reading of the judgment shows that as a matter of fact entries are there in the revenue papers, including the *Misl Hakiat Bandobast Jadid* and the subsequent *Jamabandis*, showing Phuman, father of the respsondents-defendants, in possession of the suit land, initially as a tenant and after the attestation of mutation regarding conferment of proprietary rights in the year 1982 as owner. Presumption of truth attaches to the entries in the *Misl Hakiat Bandobast Jadid* and the *Jamabandis*. There is no entry in any revenue paper supporting the claim of the appellants-plaintiffs that their father was a tenant on the suit land. No doubt, Hoshiar Singh, the previous owner, was examined by them as a witness and he testified that he had inducted Longu, the father of the appellants-plaintiffs, as tenant on the suit land and he had been sharing the produce of the land by way of rent, but his statement cannot be believed for the simple reason that he is supposed to be having a grouse against the respondents-defendants, because they have acquired proprietary rights in respect of his land, under the provisions of the Act. His evidence presumably is tainted. Under the circumstances, it cannot be said that the first Appellate Court has committed any error, muchless a serious illegality, in returning the finding of fact that respondents-defendants are in possession of the suit land as owners.

6. No other point has been urged. Since no substantial question of law arises, the appeal is dismissed.

CMP No.82/2006

This application is dismissed. Interim order dated 8.3.2006 stands vacated.

(Surjit Singh)
Judge.

August 4, 2006(sd)